

## **REMARKS**

Applicant is in receipt of the Office Action mailed February 9, 2009. Claims 1, 4, 9-11, 14-17, 27, and 28 have been amended. Claims 1-18, and 26-28 are pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks.

### **Telephone Interview Summary**

On Tuesday, March 31, 2009, a Telephone Interview was conducted between the Examiner and Mark S. Williams, in which the meaning and scope of the independent claim was discussed. The Examiner indicated that the phrase “displaying a palette, including a display window comprising a plurality of graphical program nodes for use in a graphical program” does not mean that the display window is part of the palette, but covers an encompassing window within which the palette is displayed, such as the development environment window. Applicant suggested sending a proposed amendment clarifying the intended scope of the independent claim that clearly expresses:

- a. a palette displaying a plurality of function nodes and a plurality of property nodes, where each property node corresponds to a respective subset of the function nodes.
- b. the property nodes being displayed in the palette proximate to their respective function nodes.

The Examiner agreed, and indicated that the Examiner and Applicant could communicate iteratively until agreement was reached regarding claim language that would clearly capture these features.

### **Section 102 Rejections**

Claims 1-18, and 26-28 were rejected under 35 U.S.C. 102(e) as being anticipated by LabVIEW Function and VI Reference Manual, January 1998, “LabVIEW ‘98”). Applicant respectfully traverses the rejection.

Amended claim 1 recites:

1. (Currently Amended) A computer accessible memory medium comprising program instructions, wherein the program instructions are executable by a processor to implement:

displaying a palette, wherein the palette comprises a plurality of graphical program nodes for use in a graphical program, wherein each graphical program node comprises an icon and program code, and wherein each graphical program node is represented by the graphical program node's respective icon in the palette and is selectable from the palette for inclusion in the graphical program;

wherein the plurality of graphical program nodes comprises:

a first plurality of function nodes displayed in the palette, wherein each function node corresponds to a respective functionality; and

a second plurality of property nodes displayed in the palette, wherein each property node corresponds to a respective one of at least a subset of the first plurality of function nodes, wherein each property node is displayed proximate to said respective one of the at least a subset of the first plurality of function nodes.

respective one of the at least a subset of the plurality of function nodes.

Nowhere does LabVIEW '98 disclose displaying a palette that comprises a plurality of graphical program nodes, **wherein the plurality of graphical program nodes comprises: a first plurality of function nodes displayed in the palette, wherein each function node corresponds to a respective functionality; and a second plurality of property nodes displayed in the palette, wherein each property node corresponds to a respective one of at least a subset of the plurality of function nodes, wherein each property node is displayed proximate to said respective one of the at least a subset of the plurality of function nodes**, as recited in claim 1.

In a Telephone Interview with the Examiner, summarized above, the Examiner asserted that the original claim language reciting "a display window" could be interpreted to refer not to the recited palette, but to a main development environment window within which the palette is displayed, and thus, that claim 1 does not properly express the technical features: a) a palette displaying a plurality of function nodes and a plurality of

property nodes, where each property node corresponds to a respective subset of the function nodes; and b) the property nodes being displayed in the palette proximate to their respective function nodes. Applicant has thus amended the independent claims to clarify these claimed features. The Examiner agreed that the independent claims as currently amended do in fact capture these technical features.

In asserting that the cited art discloses these features, the Examiner cites p.12-1, p.33-1, p.33-2, p.1-2, 13-20, 33-5, 12-5, p.33-1, and p.33-19.

Applicant has reviewed these citations closely, and submits that in all the palettes disclosed therein, only one generic property node (with wrench icon) is ever displayed, in accordance with the 37 CFR 1.132 Declaration submitted previously. In other words, for each palette of function nodes, the same generic property node is displayed. Applicant notes that even in the case where multiple palettes are displayed, where each displays a property node icon, all the property node icons refer to the same generic property node. Applicant further notes that the same icon (with the same wrench symbol) is displayed in each palette. Moreover, none of the cited palettes displays multiple property nodes as claimed.

For example, cited p.33-1 and p.33-19 each discloses a VISA palette (which is a sub-palette of an Instrument I/O palette) that includes a VISA sub-palette that includes a plurality of VISA function nodes and a single generic property node (see the node icon with a wrench symbol on the bottom row). Note that in this edition of LabVIEW (1998) all property nodes are generic—they adapt to a function node type in response to user selection (from a menu) of the class of the property node to which the property node is to be wired, or in response to being wired to the property node. That is why there is only one property node in the VISA palette for *all* the VISA function nodes (and all *other* function nodes, as well). It would not be useful to display a plurality of generic property nodes, as they are all the same. Thus, the cited palette fails to teach or suggest a plurality of property nodes displayed in a palette, where each property node corresponds to a respective function node, and where each property node is displayed proximate to the respective function node in the palette.

Similarly, cited p.1-2 illustrates a function palette, but does not disclose displaying corresponding function-specific property nodes proximate to respective function nodes.

The other citations also fail to disclose a palette displaying a plurality of function nodes and a plurality of property nodes, where each property node corresponds to a respective subset of the function nodes, and the property nodes being displayed in the palette proximate to their respective function nodes.

In the Response to Arguments, the Office Action argues that the original claim language can be interpreted to cover multiple palettes each being displayed with respective function nodes and a respective property node. The Examiner appears to assert that the property nodes displayed in the cited palettes of p.12-1, p.33-1/p.33-19, and p.51-1, are not the same node, referring to “property node 1 with a wrench symbol-1”, “property node 2 with a wrench symbol-2”, and “property node 3 with a wrench symbol-3”, even though they are all the same property node with the same property node icon (there is only one wrench symbol). This is incorrect. As Applicant has explained, and as clearly stated in the 37 CFR 1.132 Declaration, prior to the present invention, LabVIEW only had one generic property node, which was used for *all* function nodes. As one of skill in the art would readily understand, displaying the same property node in multiple palettes does not result in a plurality of property nodes.

Moreover, Applicant has amended claim 1 to more clearly express the notion that the first plurality of function nodes and the plurality of property nodes are displayed in the same palette, which is clearly not taught or suggested by the cited art.

Thus, for at least the above reasons, Applicant submits that the cited art fails to teach or suggest all the features and limitations of claim 1.

Independent claims 27 and 28 include similar limitations as claim 1, and so the above arguments apply with equal force to these claims. Thus, for at least the above reasons, claims 27 and 28, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Applicant asserts that numerous ones of the dependent claims recite further

As one example, the cited art fails to disclose **wherein the two or more of the channel creation node, the read node, and the write node comprise a primary set of function nodes**, as recited in claim 7.

Cited p.33-4 and p.33-5 illustrate and describe various of the VISA function nodes, but make no mention of two or more nodes forming *a primary set of function nodes*. In fact, the citation fails to even hint at a primary set of function nodes at all.

In the Response to Arguments, the Examiner simply repeats the assertion that the “Easy VISA Read and Easy VISA Serial Write and Read function nodes” of p.33-4, and the “Easy VISA Write and Read, and Easy VISA Read function nodes” of p.33-4, and the “VISA read/write nodes” of p.33-1 “comprise a primary set of Instrument I/O VISA function nodes”. However, these citations make no mention of a “primary set of function nodes”. Nor are these nodes displayed in a way that indicates they are a primary set of function nodes. For example, note that in the palette of p.33-1, the cited nodes are displayed in the same (top) row as the Easy VISA Find Resources node. Additionally, Applicant notes that there is no function specific property node displayed proximate to these nodes as a group. Thus, nothing in the citations, e.g., grouping, placement, or proximate property node, indicates that a read node and a write node comprise a primary set of function nodes.

Thus, the cited art fails to teach or suggest these features of claim 7.

Thus, for at least the above reasons, Applicant submits that claim 7, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Similarly, the cited art fails to disclose **wherein the one or more of the timing node, the triggering node, the start node, the stop node, and the clear node comprise a secondary set of function nodes; and wherein the primary set of function nodes and the secondary set of function nodes are displayed in the palette in respective groups**, as recited in claim 9.

Cited p.10-2 discusses time, dialog, and error functions, but makes no mention of one or more of these nodes, nor, more particularly, one or more of a timing node,

triggering node, start node, stop node, or clear node forming a secondary set of function nodes. In fact, the citation fails to even hint at a secondary set of function nodes at all.

Cited p.12-6 illustrates and describes a (generic) property node, a quit node, and a stop node, but does not describe one or more of these nodes, nor, more particularly, one or more of a timing node, triggering node, start node, stop node, or clear node forming a secondary set of function nodes.

Nor does cited pp.10-6 and 10-8 describe displaying primary and secondary sets of function nodes in respective groups.

In the Response to Arguments, the Examiner simply asserts that the timing function node of 10-2, the stop function nodes of 12-6 somehow are a “secondary set” of function nodes, although they are nowhere described or displayed as such. More importantly, Applicant notes that in asserting that the reference teaches “wherein the primary set of function nodes and the secondary set of function nodes are displayed in the palette in respective groups”, the Examiner cites the functions palette of 1-2, which does not appear to display a timing node, triggering node, start node, stop node, or clear node (note that the “time node”, which manipulates time functions, is not equivalent to a “timing node”). Nor does the cited palette distinguish between “primary sets” of function nodes and “secondary sets” of function nodes. The fact that the palette groups function nodes based on broad categories in no way indicates primary or second ranking of the groups. Moreover, since the cited palette fails to display the cited nodes at all, the palette does not, and cannot, teach these claimed features.

Thus, the cited art fails to teach or suggest these features of claim 9.

Thus, for at least the above reasons, Applicant submits that claim 9, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

As a further example, the cited art fails to disclose **wherein, in displaying the primary set of function nodes and the secondary set of function nodes in the palette in respective groups, the primary set of function nodes is displayed in a first column in the palette and the secondary set of function nodes is displayed in a second column in the palette**, as recited in claim 11.

Cited pp.12-1 to 12-3 disclose Application Control Functions, e.g., help functions and menu functions, but nowhere describe or even mention displaying primary and secondary sets of functions nodes as claimed, i.e., in respective columns of the palette. More specifically, the citations fail to disclose the primary and secondary sets of function nodes (as defined in claims 7 and 9, respectively) at all, nor displaying such sets in separate columns. Applicant further notes that the nodes described in pp.12-1 to 12-3 do not include any of the primary or secondary function nodes claimed.

In the Response to Arguments, the Examiner again cites the Call By Reference Node, the Call Chain node, the Close Application or VI Reference node, and the Invoke Node of pp.12-1 to 12-3, and further cites the Time and Dialog function nodes of 10-1, but fails to explain how these citations teach displaying a primary set of function nodes and a secondary set of function nodes in the palette in respective groups, by displaying the primary set of function nodes in a first column in the palette and the secondary set of function nodes in a second column in the palette. As noted above, the Time node of 10-1 is not a timing node. The Examiner further asserts that p.1-2 teaches “the primary set of function nodes is displayed in a first column in the palette and the secondary set of function nodes is displayed in a second column in the palette”. However, the cited palette of p.1-2 does not display the cited nodes (the Call By Reference Node, the Call Chain node, the Close Application or VI Reference node, and the Invoke Node), nor does the cited palette group function nodes by column, nor does the citation ever categorize or group function nodes as primary and secondary sets.

Thus, the cited art fails to teach or suggest all the features of claim 11.

Thus, for at least the above reasons, Applicant submits that claim 11, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Applicant asserts that numerous other ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Removal of the section 102 rejection of claims 1-18, and 26-28 is earnestly requested.

## **CONCLUSION**

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/5150-81100/JCH.

Also filed herewith are the following items:

- Request for Continued Examination
- Terminal Disclaimer
- Power of Attorney By Assignee and Revocation of Previous Powers
- Notice of Change of Address
- Other:

Respectfully submitted,

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